

STATE OF INDIANA
COUNTY OF DEKALB

IN THE DEKALB SUPERIOR COURT
Civil Division - Courthouse
100 Main Street
Auburn, Indiana 46706
Telephone: (260) 925-0912

JASON SHEPPARD and
DONALD JOHNSON, JR.

Plaintiff

Case Number: **17D01-2103-CT-000011**

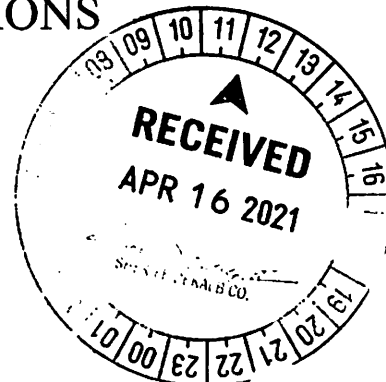
VS

DEKALB COUNTY SHERIFF

Defendant

TO: DeKalb County Sheriff
215 E. 8th Street
Auburn, IN 46706

SUMMONS



You have been sued by the person(s) named above. The claim made against you is attached to this summons; please examine all pages carefully. The "X" marked below indicates the time limit you have to **FILE YOUR ANSWER**.

XX Certified Mail You or your attorney must file a written answer to the claim within **TWENTY-THREE (23) DAYS**, commencing the day after you receive this summons, or judgment may be entered against you as claimed.

_____ Personal Service You or your attorney must file a written answer to the claim within **TWENTY-THREE (23) DAYS**, commencing the day after you receive this summons, or judgment may be entered against you as claimed.

Your answer is considered filed the day it is received in the office of the **Clerk of the Dekalb Superior Court, Room 201, Dekalb County Courthouse, Auburn, Indiana 46706**. The method you choose to deliver your answer to the Clerk's Office is up to you; however, you should be able to prove you filed the answer. If you wish to file a claim against another party associated with this case, you must state it in your written answer.

If you are required to appear, the date, time and location will be shown on an attached Notice of Hearing form. **IF YOU FAIL TO APPEAR, A JUDGMENT MAY BE ENTERED AGAINST YOU.**

Dated: 3/15/2021

Christopher C. Myers (PLAINTIFF)
Attorney / Party Preparing Summons (Party Represented)

809 South Calhoun Street, Suite 400
Street Address

Fort Wayne, IN 46802
City, State, Zip Code

(260) 424-0600 10043-02
Telephone Number Attorney Number

Haley A. Wright
CLERK OF THE DEKALB CIRCUIT AND SUPERIOR COURTS



MANNER OF SERVICE

(To be completed by Party Preparing Summons)

SHERIFF shall serve this Summons as follows:

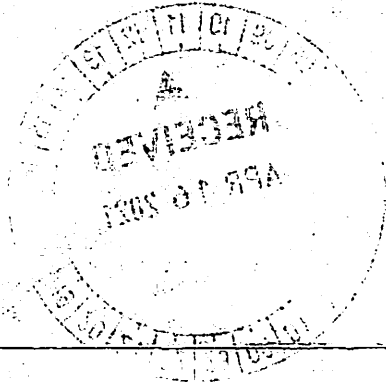
_____ personal service
_____ leaving a copy at dwelling or place of employment

CLERK shall serve this Summons as follows:

_____ regular mail
_____ certified mail
_____ publication

OTHER manner of service:

X attorney to serve
_____ private process server,
_____ other (describe in particular and note Trial Rule)



CERTIFIED MAIL

I hereby certify, as indicated in the date issued field, that a copy of this document was sent to the named person(s) at the address(es) furnished, by registered/certified mail at Auburn, Indiana, return receipt requested.

I hereby certify that service by registered/certified mail at Auburn, Indiana, was attempted as required by law to the person and address stated on the return receipt attached; and that service ☐ was ☐ was not made, according to the information contained therein.

Date Issued: _____

Date Issued: _____

Clerk of the DeKalb Circuit and Superior Courts

Clerk of the DeKalb Circuit and Superior Courts

ADMISSION OF SERVICE

I received a copy of this Summons on this date _____ and at this location: _____

Signature of Party

Relationship (if not within named person)

RETURN OF SERVICE BY SHERIFF OR OTHER OFFICER

Enter the alphabetical letter in the space provided to indicate the type of service.

I served a copy of this Summons as specified: (_____)

READING / delivering a copy (A) to the within named party;

LEAVING A COPY for the within named party

(B) with the spouse, named:

(E) with a secretary, named:

(C) with a relative, named:

(F) with the attorney, named:

(D) at the residence, located at:

(H) with this person (other-specify):

(E) with the employer, named: _____

Specify name of person, work supervisor, place of business, or location where copy was left.

and (if applicable) by sending a copy of this document by first-class mail to the last known address of the within named person as indicated:

Last known address of person named in the document (or Change of Address)

I did not serve a copy of this Summons because: (_____)

(I) The party was NOT FOUND / NO SUCH ADDRESS.

(R) the party was on VACATION.

(J) the document EXPIRED.

(S) the party was NOT FOUND / VACANT.

(K) the party AVOIDED service.

(T) the party was NOT FOUND / MOVED.

(L) the party REFUSED service.

(U) the party was NOT FOUND IN THIS BAILIWICK.

(M) the party was NO LONGER EMPLOYED at the address.

(V) INSUFFICIENT ADDRESS OR INFORMATION WAS GIVEN.

(N) the document was RETURNED by the authority of the Plaintiff.

(W) they are NO LONGER IN BUSINESS.

(O) the party is DECEASED.

(X) several attempts were made / UNABLE TO SERVE.

(P) the party was UNKNOWN AT THAT ADDRESS.

(Y) of the following reason (OTHER-specify):

(Q) the party was on SICK LEAVE / LAY OFF.

I AFFIRM, UNDER THE PENALTY OF PERJURY, THAT THE FOREGOING REPRESENTATIONS ARE TRUE.

Date Served / Attempted

Time Served / Attempted

Signature of Sheriff of DeKalb County, Indiana (or other officer)

(Printed Name of Process Server)

By: _____
Signature of Process Server

STATE OF INDIANA)
)
COUNTY OF DEKALB)

SS:

IN THE DEKALB SUPERIOR COURT
CAUSE NO. **17D01-2103-CT-000011**

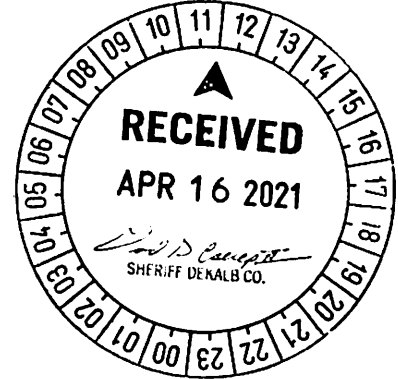
JASON SHEPPARD and)
DONALD JOHNSON, JR.,)

Plaintiffs,)

v.)

DEKALB COUNTY SHERIFF,)

Defendant.)



COMPLAINT

Plaintiffs, by counsel, allege against Defendant that:

1. The Plaintiffs are Jason Sheppard and Donald Johnson, Jr. who are former detainees at the DeKalb County Jail in Auburn Indiana.
2. The DeKalb County Sheriff is named as a Defendant in his official capacity pursuant to 42 U.S.C. § 1983. At all material times to this Complaint, the Sheriff was responsible for unconstitutional and/or constitutionally-deficient policies, practices, procedures, and customs in effect at the DeKalb County Jail which subjected Plaintiffs to unconstitutional conditions of confinement in violation of Plaintiffs' federal protected rights under the Eighth and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983.
3. Plaintiffs issued a Tort Claim Notice on December 19, 2019, a copy of which is attached hereto, incorporated herein, and made a part hereof as Exhibit "A". All available administrative remedies have been exhausted, and all jurisdictional

prerequisites have been met for the filing of this lawsuit.

4. Plaintiff Jason Sheppard was arrested and detained in the DeKalb County Jail on or about May 3, 2019. At the time he was booked in, he was believed to be suicidal and was placed in a “suicide watch” area that lacked toilet facilities. Mr. Sheppard repeatedly informed officers that he needed to use the toilet facilities (to attend to normal bodily functions), but was not permitted to do so. Mr. Sheppard was eventually forced to utilize a drain or hole in the floor of the room, subjecting him to unreasonably unsanitary housing conditions, and depriving him of sanitation and housing conditions that fell below the bare minimum of what he was entitled to as a member of a civilized society.
5. Plaintiff Donald Johnson, Jr. was also incarcerated in DeKalb County Jail in May of 2019. On or about May 16, 2019, he was sent to a “rubber room” within the jail and forced to remain in the same or similar cell as Mr. Sheppard was housed in when he first entered the jail. Like Mr. Sheppard, Mr. Johnson was not given access to toilet facilities and was forced to attend to his bodily functions by using a drain or hole in the floor of the cell. In addition to this unsanitary arrangement, Mr. Johnson was also forced to walk in urine, blood and feces that jail personnel had failed to clean out of the cell. Mr. Johnson was held in this cell, without access to toilet facilities, for six (6) days.
6. The Plaintiffs, and each of them, contend that they were held in filthy and unsanitary cells, and denied access to appropriate toilet facilities, for a prolonged period of time as a result of the unconstitutional/constitutionally-deficient policies, practices,

procedures, and customs of the DeKalb County Sheriff pertaining to the housing of prisoners and inmates in the jail, including, but not limited to, the housing of those individuals suspected of being at risk for suicide, mental illness, or otherwise in need of separation from the general population for some other reason.

7. The Defendant's unconstitutional/constitutionally-deficient policies, practices, procedures, and customs that governed and directed the particular housing into which Plaintiffs were placed were kept while in the DeKalb County Jail, were the direct and proximate cause of Plaintiffs suffering cruel and unusual punishment, and additionally suffered inconvenience, humiliation, exposure to disease and illness, emotional distress, mental anguish, and other damages and injuries.

WHEREFORE, Plaintiffs pray for judgment against the Defendant, for compensatory damages, reasonable attorney's fees and costs, and all other just and proper relief in the premises.

JURY DEMAND

Pursuant to Rule 38 of the Indiana Rules of Trial Procedure, Plaintiff demands a trial by jury in this action.

Respectfully submitted,

CHRISTOPHER C. MYERS & ASSOCIATES

/s/Christopher C. Myers

Christopher C. Myers, #10043-02
809 South Calhoun Street, Suite 400
Fort Wayne, IN 46802

Telephone: (260) 424-0600

Facsimile: (260) 424-0712

E-mail: cmyers@myers-law.com

Counsel for Plaintiffs

CHRISTOPHER C. MYERS & ASSOCIATES

LAW OFFICES

809 S. Calhoun Street, Suite 400 • Fort Wayne, IN 46802
(260) 424-0600 • (260) 424-0712 (FAX)**17D01-2103-CT-000011**CHRISTOPHER C. MYERS
CATHY T. SERRANOcmyers@myers-law.com
cserrano@myers-law.com

December 19, 2019

Board of Commissioners of DeKalb County
100 South Main Street, Courthouse
Auburn, IN 46706Sheriff of DeKalb County Indiana
Sheriff David G. Cserep, II
215 East 8th Street
Auburn, IN 46706

COPY

Re: Jason L. Sheppard v Dekalb County Sheriff & "John Doe" officers**NOTICE OF TORT CLAIM**

To Whom This May Concern:

Please be advised that my firm represents Jason L. Sheppard and Donald N. Johnson in the above dispute. This letter will serve as their Notice of Tort Claim to you.

Circumstances Which Brought About the Loss:

Jason L. Sheppard was arrested and detained in the DeKalb County Jail on or about May, 2019 at which time he was believed to be suicidal and placed in a suicide watch area which contained no toilet facilities. Mr. Sheppard repeatedly expressed to officers of the DeKalb County Sheriff that he needed to use the toilet facilities, but was never allowed to do so. He eventually had to utilize a drain or hole in the floor of the room, which is not sanitary. Being deprived of toilet facilities presents a claim for unconstitutional conditions of confinement.

Donald Johnson was detained in Dekalb County Jail as well, and was treated similarly in that he was forced to walk in urine in the midst of blood and feces.

Extent of the Loss:

The Eighth Amendment (and the Fourteenth Amendment) requires prison officials or correction officers to provide humane conditions of confinement. That obligation includes a responsibility to provide adequate food, clothing, shelter, sanitation, medical care, and other such basic needs in the prison or jail setting.

LAW OFFICES

CHRISTOPHER C. MYERS & ASSOCIATES

Re: Jason Sheppard & Donald Johnson v Dekalb County Sheriff & "John Doe" officers
Page 2- December 18, 2019

The denial of the use of sanitary toilet facilities to an inmate is inhumane and violative of the constitutional requirements cited above.

Time and Place the Loss Occurred:

Jason L. Sheppard was incarcerated from on or about May, 2019 until he was sentenced and subsequently confined to the Plainfield Correctional facility.

Donald N. Johnson was sent to the "rubber room" at Dekalb Jail on May 16, 2019, where he was forced to walk in urine in the midst of blood and feces. He was subsequently confined at the New Castle Correctional facility.

Names of All Persons Involved (If Known):

Dekalb County Sheriff (in his official capacity)
Unknown Dekalb County Officers ("John Does")

The Amount of the Damages Sought:

The Claimants understand that there is a cap for relief under Indiana Tort Claims Act. Claimants are each seeking \$25,000.00 in compensatory damages, and an additional amount in punitive damages, as well as reasonable costs and attorneys' fees under the Fourth Amendment and 42 U.S.C. § 1983.

Residence of Claimant at the Time of the Loss and at the Time of the Filing of This Notice:

Claimant's address at the time of the incident was at the Dekalb County Jail located in Auburn, Indiana. At the present time the Complainant Sheppard is incarcerated at the Plainfield Correctional Facility, DOC#123832, 727 Moon Road, Plainfield, Indiana 46168. Complainant Johnson is incarcerated at the New Castle Correctional Facility, DOC#277535, at 1000 Van Nuys Road, New Castle, Indiana 47362.

Respectfully Submitted,

CHRISTOPHER C. MYERS & ASSOCIATES



Christopher C. Myers

cc:

Jason L. Sheppard, Donald N. Johnson